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EXAMINER	
CHOKSHI, PINKAL R	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/516,470	MCEVILLY ET AL.	
	Examiner	Art Unit	
	PINKAL CHOKSHI	2623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *27 June 2008*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *See Continuation Sheet* is/are pending in the application.

4a) Of the above claim(s) *16,24,25,27,33,44,48 and 49* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15,17,18,20,21,23,28,32,34-36,39,40,51-53,63,65,70-73,76-79,92,106 and 144-147* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

Continuation of Disposition of Claims: Claims pending in the application are 1-18,20,21,23-25,27,28,32-36,39,40,44,48,49,51-53,63,65,70-73,76-79,92,106 and 144-147.

DETAILED ACTION

Response to Amendment

1. Applicant's Amendment filed on 06/27/2008 is acknowledged. Claims 16, 24, 25, 27, 33, 44, 48 and 49 have been cancelled.

Response to Arguments

2. Applicant's arguments filed on 06/27/2008 with respect to claim 1 have been considered but are moot in view of the new ground(s) of rejection. See the new rejection below.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. **Claims 51-53, 65, 70-73, 76-78, 106 and 144-147** are rejected under 35 U.S.C. 102(e) as being anticipated by US Patent 6,789,106 B2 to Eyer et al (hereafter referenced as Eyer).

Regarding **claim 51**, "a user device for use in a content delivery system" reads on the multimedia system located at user's home and

head-end/service provider, that includes media server that provides audio/video program such as on demand, movies, broadcast programming to head-end, retrieves and process data to multimedia system (col.1, lines 54-57; col. 3, lines 11-22) disclosed by Eyer and represented in Fig. 1.

As to "the user device comprising: a first receiver operable to receive user input" Eyer discloses (col.1, lines 58-62) that based on the user's selection via remote control as represented in Fig. 1 (element 36), receiver receives the requested content.

As to "a transmitter operable to transmit, in response to a first user input identifying content to be recorded, a request to a remote capture system to capture the content identified by said first user input" Eyer discloses (col.1, lines 54-62) that based on the user selection, receiver receives the requested content from head-end.

As to "a second receiver operable to receive captured and processed content data from said remote capture system" Eyer discloses (col.5, lines 62-64) that the tuner receives the data transmissions from head-end as represented in Fig. 2 (element 104).

As to "a storage device for storing the captured and processed content data received by said second receiver" Eyer discloses (col.7, lines 56-59 and col. 9, lines 1-10) that the STB includes mass storage device that stores content and audio/video data.

As to "a playout unit operable to playout the contents stored on the storage device only in response to receiving a remote transmission

indicating permission to playout the content" Eyer discloses (col.9, lines 18-21) that the user selected content is captured and stored in memory so it can be retrieved and play out at later time. Eyer further discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

As to "whereby the user device initiates server side capture of the content, provides client side storage of the captured content, and initiates playout of the captured content under server side control" Eyer discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

Regarding **claim 52,** "a system wherein said capture system is operable to transmit said captured content data together with said tag data to said second receiver of said user device and wherein said storage device is operable to store both the captured content data and the generated tag data" Eyer discloses (col.3, lines 45-67) that the timing information is included in TS which is received by receiver and stored in the mass storage device of the receiver.

Regarding **claim 53,** "a system wherein said playout unit is operable to control the playout of said stored content data in dependence upon on the tag data associated with the content data" Eyer discloses (col.1, lines 44-46) that the receiver has a control element that controls the receipt, storage and play of audio/video information.

Regarding **claim 65**, "a system wherein said user device is operable to transmit a recorded content playout request to said capture system and wherein said capture system is operable to redirect the user to the storage device containing the requested content" Eyer discloses (col.1, lines 54-62) that based on the user selection, receiver receives and stores the requested content from head-end. Eyer further discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

Regarding **claim 70**, "a capture system for use in a content delivery system" reads on the multimedia system located at user's home and head-end/service provider, that includes media server that provides audio/video program such as on demand, movies, broadcast programming to head-end, retrieves and process data to multimedia system (col.1, lines 54-57; col. 3, lines 11-22) disclosed by Eyer and represented in Fig. 1.

As to "the capture system comprising: a receiver operable to receive a user request from a remote user device, identifying content to be captured" Eyer discloses (col.3, lines 45-67) that the head-end receives the request for video programming from the receiver.

As to "a capture device operable to capture and process content data as it is broadcast from a content broadcaster in accordance with said user request" Eyer discloses (col.3, lines 23-26) that the head-end includes an information server that contains broadcast programs as represented in Fig. 1 (element 16).

As to "a transmitter operable to transmit captured and processed content data to said remote user device for storage therein" Eyer discloses (col.1, lines 54-62) that based on the user selection, head-end transmits the requested content from receiver.

As to "wherein, in response to a request from the remote user device for playout of the transmitted content data, the capture system is operable to make a determination as to whether the playout request should be granted, and responds to the request based on the result of the determination" Eyer discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

Regarding **claim 71,** "a system wherein said capture system is operable to process said captured content data to determine tag data identifying the timing of content segments within the captured content" Eyer discloses (col.3, lines 45-48) that the timing information is included in the TS received by STB from head end.

Regarding **claim 72,** "a system wherein said capture system is operable to transmit said captured content data together with said tag data to said second receiver of said user device and wherein said storage device is operable to store both the captured content data and the generated tag data" Eyer discloses (col.3, lines 45-67) that the timing information is included in TS which is received by receiver and stored in the mass storage device of the receiver.

Regarding **claim 73**, "a system wherein said capture system includes a video server operable to capture video data as it is broadcast by said content broadcaster" Eyer discloses (col.3, lines 23-26) that the head-end includes an information server that contains broadcast programs as represented in Fig. 1 (element 16).

Regarding **claim 76**, "a system wherein said capture system includes a database, wherein said PVR server is operable to store received user requests for content recorded in said database and further

comprising a scheduler operable to process the requests stored in said database together with program guide data identifying the timing at which content is to be broadcast by said content broadcaster, to control the capturing of content by said video server" Eyer discloses (col.3, lines 23-44; col.4, lines 33-35; col.8, lines 52-65) that the STB is connected to or includes other devices such as PVR that receives and stores the audio/video data along with the audio/video information attributes.

Regarding **claim 77**, "a system wherein said scheduler is operable to provide channel data identifying the channels to be recorded together with data identifying the start and end time for the recordings" Eyer discloses (col.3, lines 23-60) that the program listing database includes scheduled broadcast programs that has precise start/end time with TS to be stored on the storage medium.

Regarding **claim 78**, "a system wherein said capture system is operable to generate a contents schedule for each piece of content captured by the capture system, which contents schedule identifies a sequence of content portions of captured content to be played out by the playout unit of said user device" Eyer discloses (col.3, lines 13-16, 23-31) that the head-end includes information server that has program listing database that contains scheduled broadcast programs and number of information attributes about audio/video programs.

Regarding **claim 106,** "a content delivery method comprising: transmitting from a user device in response to a user input, a request to a remote capture system to capture content identified by the user input" reads on the multimedia system located at user's home and head-end/service provider, that includes media server that provides audio/video program such as on demand, movies, broadcast programming to head-end, retrieves and process data to multimedia system (col.1, lines 54-57; col. 3, lines 11-22) disclosed by Eyer and represented in Fig. 1.

As to "receiving the user request at the remote capture system and capturing and processing the identified content when it is broadcast from a content broadcaster" Eyer discloses (col.1, lines 58-62) that based on the user's selection via remote control as represented in Fig. 1 (element 36), receiver receives the requested content. Eyer further discloses (col.5, lines 62-64) that the tuner receives the data transmissions from head-end as represented in Fig. 2 (element 104).

As to "transmitting the captured and processed content data to said user device" Eyer discloses (col.1, lines 54-62) that based on the user selection, receiver receives the requested content from head-end.

As to "storing the content data received by said user device in a storage device of the user device" Eyer discloses (col.7, lines 56-59 and col. 9, lines 1-10) that the STB includes mass storage device that stores content and audio/video data.

As to "retrieving, in response to a user input, provided from the user device to the remote capture system, and identifying stored content to be played out, the content identified by said user input from said storage device and playing out under control of the remote capture system the retrieved content to an associated user" Eyer discloses (col.9, lines 18-21) that the user selected content is captured and stored in memory so it can be retrieved and play out at later time. Eyer further discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

Regarding **claims 144, 145, 146, and 147,** "a computer readable medium storing computer executable instructions for causing a programmable computer device to become configured as the user device of claim 51" Eyer discloses (col.11, lines 9-15) that his invention can be implemented as executable computer program instructions embodied in software of a computer readable medium that can be executed by processing system.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. **Claims 1-4, 7-13, 17, 18, 23, 28, 32, 34-36, 39, 40, 63, and 92** are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al in view of WO Publication 91/03112 to De Bey et al. (hereafter referenced as De Bey) and US Patent 6,539,548 B1 to Hendricks et al. (hereafter referenced as Hendricks).

Regarding **claim 1,** "a content delivery system comprising: a user device disposed at a client side of the content delivery system, and a capture system located remote from said user device, at a server side of the content delivery system, and operable to capture and process content data as the content data is broadcast from a content broadcaster" reads on the multimedia system located at user's home and head-end/service provider, that includes media server that provides audio/video program such as on demand, movies, broadcast programming to head-end, retrieves and process data to multimedia system (col.1, lines 54-57; col. 3, lines 11-22) disclosed by Eyer and represented in Fig. 1.

As to "the user device includes: i) a first receiver operable to receive user input" Eyer discloses (col.1, lines 58-62) that based on the user's selection via remote control as represented in Fig. 1 (element 36), receiver receives the requested content.

As to "ii) a transmitter operable to transmit, in response to a first user input identifying content to be recorded, a request to said remote

capture system to capture the content identified by said first user input" Eyer discloses (col.1, lines 54-62) that based on the user selection, receiver receives the requested content from head-end.

As to "iii) a second receiver operable to receive the content data captured, remotely, in response to the request" Eyer discloses (col.5, lines 62-64) that the tuner receives the data transmissions from head-end as represented in Fig. 2 (element 104).

As to "iv) a storage device for storing the captured and processed content data received by said second receiver" Eyer discloses (col.7, lines 56-59 and col. 9, lines 1-10) that the STB includes mass storage device that stores content and audio/video data.

As to "v) a playout unit operable to retrieve the content from said storage device and operable to playout the retrieved content" Eyer discloses (col.9, lines 18-21) that the user selected content is captured and stored in memory so it can be retrieved and play out at later time.

As to "the content data remotely captured is also processed by said remote capture system" Eyer discloses (col.1, lines 54-57; col. 3, lines 11-22) that the head-end/service provider, that includes media server that provides audio/video program such as on demand, movies, broadcast programming to head-end, retrieves and process data to multimedia system as represented in Fig. 1.

As to "said capture system is operable to download data defining a graphical user interface based on the record of the content stored in the

storage device of the user device" Eyer discloses (col.9, lines 51-67) that based on the user selection using GUI displayed on the TV/receiver, if the receiver doesn't have this programming data stored on the receiver, then they reciever obtains it from the non-local storage, such as by requesting the data from the service provider, which receives it from media server as represented in Fig. 1.

As to “wherein said graphical user interface identifies content that has been captured by said capture system in response to a request received by said user device” Eyer discloses (col.9, lines 51-67) that using GUI, user is able to select any audio/video programming played or available from head-end based on user’s selection.

As to “the graphical user interface is operable to communicate inputs from the user to the server side of the content delivery system, whereby a request from the user to retrieve and playout content stored in the storage device of the user device is provided to the server side of the content delivery system” Eyer discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

As to “the playout of the content stored in the storage device is enabled under control of the server side of the content delivery system” Eyer discloses (col.1, lines 54-62; col.3, lines 25-42; col.9, lines 51-67)

that based on the request received from receiver, service provider transmits access control information to receiver.

Eyer meets all the limitations of the claim except "the capture system is operable to maintain a record of all content transmitted to said user device for storage in said storage device." However, De Bey discloses (pg.17, line 32-pg.18, line 10) that the scheduling algorithm maintains the number of count for different program streams stored in receiver. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to maintain a record of contents that's being stored in receiver as taught by De Bey in order to keep the records updated so the content provider can appropriately charge user for the content that was watched/stored in the receiver.

Eyer and De Bay meet all the limitations of the claim except "content that has been captured automatically by said capture system based on a user profile for the user associated with the user device." However, Hendricks discloses (col.3, line 65-col.4, line 2) that the operation center at head-end manages program line-ups based on the viewer preferences for programming received from the receiver as represented in Fig. 1. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to modify Eyer and De Bey's inventions by using viewer preference to transmit programs as taught by Hendricks in order to make decisions on future individualized program lineup for a viewer (col.4, lines 4-5).

Regarding **claim 2,** "a system wherein said capture system is operable to process said captured content data to determine tag data identifying the timing of content segments within the captured content" Eyer discloses (col.3, lines 45-48) that the timing information is included in the TS received by STB from head end.

Regarding **claim 3,** "a system wherein said capture system is operable to transmit said captured content data together with said tag data to said second receiver of said user device and wherein said storage device is operable to store both the captured content data and the generated tag data" Eyer discloses (col.3, lines 45-67) that the timing information is included in TS which is received by receiver and stored in the mass storage device of the receiver.

Regarding **claim 4,** "a system wherein said playout unit is operable to control the playout of said stored content data in dependence upon on the tag data associated with the content data" Eyer discloses (col.1, lines 44-46) that the receiver has a control element that controls the receipt, storage and play of audio/video information.

Regarding **claim 7,** "a system wherein said content data represents a video broadcast" Eyer discloses (col.2, lines 49-53) that the content received by receiver is audio/video content.

Regarding **claim 8**, "a system wherein said capture system includes a video server operable to capture video data as it is broadcast by said content broadcaster" Eyer discloses (col.3, lines 23-26) that the head-end includes an information server that contains broadcast programs as represented in Fig. 1 (element 16).

Regarding **claim 9**, "a system further comprising a personal video recorder (PVR) server operable to receive the requests transmitted by said user device and operable to control the capturing of said video data by said video server" Eyer discloses (col.4, lines 33-35 and col.8, lines 52-65) that the STB is connected to or includes other devices such as PVR that receives and stores the audio/video data.

Regarding **claim 10,** "a system wherein said capture system includes a database, wherein said PVR server is operable to store received user requests for content recorded in said database and further comprising a scheduler operable to process the requests stored in said database together with program guide data identifying the timing at which content is to be broadcast by said content broadcaster, to control the

capturing of content by said video server" Eyer discloses (col.3, lines 23-44; col.4, lines 33-35; col.8, lines 52-65) that the STB is connected to or includes other devices such as PVR that receives and stores the audio/video data along with the audio/video information attributes.

Regarding **claim 11**, "a system wherein said scheduler is operable to provide channel data identifying the channels to be recorded together with data identifying the start and end time for the recordings" Eyer discloses (col.3, lines 23-60) that the program listing database includes scheduled broadcast programs that has precise start/end time with TS to be stored on the storage medium.

Regarding **claim 12**, "a system wherein said capture system is operable to generate a contents schedule for each piece of content captured by the capture system, which contents schedule identifies a sequence of content portions of captured content to be played out by the playout unit of said user device" Eyer discloses (col.3, lines 13-16, 23-31) that the head-end includes information server that has program listing database that contains scheduled broadcast programs and number of information attributes about audio/video programs.

Regarding **claim 13**, "a system wherein said contents schedule identifies a sequence of program segments and adverts to be played out

by said playout unit" Eyer discloses (col.3, lines 25-30) that the program listing database conveys information attributes to the set-top box.

Regarding **claim 17,** "a system wherein said capture system is operable to generate a plurality of different contents schedules one for each of a corresponding plurality of different user types, wherein the user associated with the user device is categorised as belonging to one of said user types and wherein said capture system is operable to transmit to said user device the contents schedule for the type of user associated with the user device" Eyer discloses (col.3, lines 13-16, 23-31) that the head-end includes information server that has program listing database that contains scheduled broadcast programs and number of information attributes about audio/video programs that are sent over to STB.

Regarding **claim 18**, Eyer meets all the limitations of the claim except "a system wherein said capture system is operable to mark one or more of said sequence of content portions to restrict playout control available to a user of said user device." However, Hendricks discloses (col.3, lines 34-38, 50-64) that the hardware and software in head-end controls and transmits programming signals over to set-top box. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to restrict video programming to user device as taught by Hendricks in order to properly manage program lineups and also

to stop unauthorized viewing of any programming that wasn't paid by the viewer (col.3, line 65).

Regarding **claims 23,** "a system wherein said capture system is operable to capture and buffer all content broadcast by said content broadcaster during a previous N hours" Eyer discloses (col.10, lines 46-50) that the audio/video objects are buffered before it can be supplied to the STB.

As to "said user device includes a third receiver for receiving live content broadcast from said content broadcaster" Eyer discloses (col.5, line 66-col.6, line 1) that another tuner is provided to receive broadcast television contents. As to "wherein said capture system is operable to use the content captured during said previous N hours to provide pause live content functionality to said user device" Eyer discloses (col.9, lines 37-42) that if user selects a program during audio/video object is playing, it pauses the program so the user can select the previous audio/video program.

Regarding **claims 28, 63 and 92**, Eyer meets all the limitations of the claim except "a system wherein said capture system includes a transmitter for transmitting the captured and processed content data to said user device at a data rate which is less than a data rate required for real time playout of the content by said playout unit." However, De Bey

discloses (page 3, lines 19-37) that the head-end transmits the program segments to receiver where receiver stores it. Receiver also makes sure that the program segment received will enable continuous playaback in real time of the program by selecting lower data speed so a user needs to wait to before start playing a requested program. In addition, the same motivation is used as the rejection for claim 25.

Regarding **claims 32,** "a system further comprising a second storage device provided remote from said user device and operable to store content captured by said capture system for a user associated with the user device" Eyer discloses (col.3, lines 11-16) that the media database in head-end stores movies and other broadcast programming.

As to "said user device is operable to transmit a recorded content playout request to said capture system" Eyer discloses (col.9, lines 51-67; col.3, lines 25-42) that using GUI, user sent a request to view a selected program from the storage device of receiver or non-local storage and based on the request, service provider transmits access control information to receiver.

As to "the capture system is operable to redirect the user to the storage device containing the requested content" Eyer discloses (col.1, lines 54-62; col.3, lines 25-42; col.9, lines 51-67) that based on the request received from receiver, service provider transmits access control information to receiver.

Regarding **claim 34**, Eyer meets all the limitations of the claim except "a system wherein said capture system is operable to make suggestions of content to be recorded to said user device and is operable to record suggestions selected by a user associated with the user device." However, Hendricks discloses (col.40, lines 27-31) that based on the viewer's response, receiver finds the best programming matches suggested by head-end. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to receive suggestion from head-end as taught by Hendricks in order to allow the viewers to easily select from among the many program choices (col.2, lines 53-55).

Regarding **claim 35**, Eyer meets all the limitations of the claim except "a system wherein said capture system is operable to make said suggestions based on user profile data for the user associated with the user device." However, Hendricks discloses (col.26, lines 34-40; col.40, lines 7-10) that head-end makes suggestion based on the viewer profile. In addition, the same motivation is used as the rejection for claim 39.

Regarding **claim 36**, Eyer meets all the limitations of the claim except "a system wherein said capture system is operable to make said suggestions based on previous programmes viewed by the user associated with the user device." However, Hendricks discloses (col.14,

lines 36-38; col.40, lines 7-10) that head-end makes suggestion based on the history of viewer information such as programs viewed. In addition, the same motivation is used as the rejection for claim 39.

Regarding **claim 39**, Eyer meets all the limitations of the claim except "a system wherein multiple users are associated with said user device, wherein said capture system includes user profile data for each user associated with the user device, and wherein said user device is operable to transmit current user ID data to said capture system to identify the current user associated with the user device, and wherein the capture system is operable to use said current ID data to select the user profile data for the current user." However, De Bey discloses (page 11, line 35-page 12, line 1) that based on the unique receiver ID to each subscriber, head-end sends particular video program to a user associated with the receiver. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to send the video program to a specific user/receiver as taught by De Bey in order to prevent unauthorized viewing of transmitted programs (page 11, lines 28-29).

Regarding **claim 40**, Eyer meets all the limitations of the claim except "a system wherein said capture system maintains a record list for each user associated with the user device and is operable to use the current user ID to select the record list for the current user of the user

device." However, De Bey discloses (col.18, lines 11-15) that the head-end records the subscriber id, title id and other info. In addition, the same motivation is used as the rejection for claim 39.

7. **Claims 5, 6, 20, and 21** are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al in view of De Bey et al. and Hendricks et al. as applied to claim 1 above, and further in view of US Patent 7,320,137 B1 to Novak et al (hereafter referenced as Novak).

Regarding **claims 5 and 6,** Eyer meets all the limitations of the claim except "a system wherein said playout unit is operable to control the playout of said content data in accordance with said tag data and a user input identifying the rate at which the content data is to be played out." However, Novak discloses (col.2, lines 47-53 and col.7, lines 14-17) that the playback device controls the audio/video programs show on display device, plays the video and changes the playback speed by skipping from one point to another based on user's command.

As to "A system wherein said playout unit is operable to control the rate at which said content data is played out to provide fast forward and/or rewind capabilities" Novak discloses (col.2, lines 50-53) that based on user's command, playback device skips forward or backward the video content. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to use the control unit to control the program and plays the content at different rate as taught by Novak in

order to provide an option to rewind/forward/pause the video based on user's need.

Regarding **claims 20,** Eyer meets all the limitations of the claim except "a system wherein said capture system is operable to transmit guide data identifying different content that will be broadcast by said contents broadcaster and wherein said user device is operable to output said guide data to said user." Novak discloses (col.4, lines 1-11) that head-end sends the video signals and other EPG data to STB. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to use EPG data received from head-end as taught by Novak in order to provide access of program timing information to user.

Regarding **claims 21,** "a system wherein said capture system is operable to generate a menu page identifying the content that can be recorded by said capture system and wherein said user device is operable to display said menu page to said user" Novak discloses (col.10, lines 46-49) that the user interacts with STB via visual indicator such menu to execute actions such as recording. In addition, the same motivation is used as the rejection for claim 20.

8. **Claims 14 and 15** are rejected under 35 U.S.C. 103(a) as being unpatentable over Eyer et al in view of De Bey et al. and Hendricks et al. as

applied to claims 1 and 12 above, and further in view of in view of well known prior art.

Regarding **claims 14, and 15**, Eyer meets all the limitations of the claim except "a system wherein said capture system is operable to generate a personalised contents schedule for the user device based on a user profile associated with a user of the user device." However, the examiner takes official notice that it was well known in the art at the time of the invention to create EPG data based on user's profile. Therefore, it would have been obvious to one of ordinary skills in the art at the time of the invention to include EPG data based on user's profile to Eyer's system in order to provide easy access to timing information of user's favorite programs instead of user searching for their favorite programs in the EPG.

Conclusion

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PINKAL CHOKSHI whose telephone number is (571) 270-3317. The examiner can normally be reached on Monday-Friday 8 - 5 pm (Alt. Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Pendleton can be reached on 571-272-7527. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PRC/
/Brian T. Pendleton/
Supervisory Patent Examiner, Art Unit 2623